

STATE OF WISCONSIN

CIRCUIT COURT

CLARK COUNTY

KLYDE GEBELEIN,
H4129 State Highway 13
Colby, WI 54421,

Plaintiff,

Case No.: 16-CV-73
Case Code: 30107

vs.

WISCONSIN MUNICIPAL MUTUAL
INSURANCE COMPANY,
4785 Hayes Road, # 200
Madison, WI 53704

SECURITY HEALTH PLAN
ADVOCARE,
1515 Saint Joseph Avenue
Marshfield, WI 54449-8000,

and

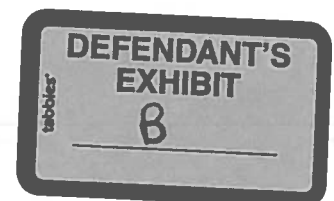
TROY DEILER,
DEPUTY OF MARATHON COUNTY
SHERIFF'S DEPARTMENT,
500 Forest Street
Wausau, WI 54403,

Defendants.

**WISCONSIN MUNICIPAL MUTUAL INSURANCE COMPANY AND TROY DEILER'S
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Wisconsin Municipal Mutual Insurance Company (WMMIC) and Troy Deiler (hereinafter, "Answering Defendants"), by their attorneys, ARENZ, MOLTER, MACY, RIFFLE & LARSON, S.C., submit the following Answer to Plaintiff's Complaint:

1. Answering ¶ 1, admit that Plaintiff is an adult who resides at said address; however, lack of knowledge and information sufficient to form a belief as to whether Plaintiff



was engaged in the excavation business and therefore deny the same putting Plaintiff specifically to his proof thereon.

2. Answering ¶ 2, admit that WMMIC is a Wisconsin Mutual Insurance Company with its offices at said address and that it issued a policy of insurance to Marathon County but affirmatively allege that any and all claims are subject to all the terms, limitations of liability, conditions, exclusions and provisions contained within the policy it issued. As further answer, deny that these Answering Defendants acted improperly or in violation of Plaintiff's constitutional, civil and/or statutory rights as alleged or otherwise.

3. Answering ¶ 3, the allegations relate only to other parties and therefore no response is required from these Answering Defendants. To the extent this paragraph is found to pertain to these Answering Defendants, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of those allegations, and therefore deny the same putting Plaintiff specifically to his proof thereon.

4. Answering ¶ 4, admit that Troy Deiler was employed as a deputy at Marathon County Sheriff's Department and that he acted consistent with his authority and within the scope of his employment at all times. As further answer, deny Plaintiff's description is either complete or correct.

5. Answering ¶ 5, admit WMMIC issued a policy of insurance to Marathon County but affirmatively allege that any and all claims are subject to all the terms, limitations of liability, conditions, exclusions and provisions contained within the policy it issued.

6. Answering ¶ 6, deny Plaintiff's description is either complete or correct. As further answer, deny that these Answering Defendants acted improperly or in violation of Plaintiff's constitutional, civil and/or statutory rights as alleged or otherwise.

7. Answering ¶ 7, admit that Plaintiff was involved in a traffic stop. As to all other allegations, deny Plaintiff's description is either complete or correct. As further answer, deny that these Answering Defendants acted improperly or in violation of Plaintiff's constitutional, civil and/or statutory rights as alleged or otherwise.

8. Answering ¶ 8, deny Plaintiff's description is either complete or correct.

9. Answering ¶ 9, deny Plaintiff's description is either complete or correct.

10. Answering ¶ 10, deny Plaintiff's description is either complete or correct.

11. Answering ¶ 11, deny Plaintiff's description is either complete or correct. As further answer, deny that these Answering Defendants acted improperly or in violation of Plaintiff's constitutional, civil and/or statutory rights as alleged or otherwise.

12. Answering ¶ 12, deny.

13. Answering ¶ 13, deny.

14. Answering ¶ 14, deny.

15. Answering ¶ 15, deny.

AFFIRMATIVE DEFENSES

These Answering Defendants hereby submit the following affirmative defenses to Plaintiff's Complaint:

- a. the injuries and damages sustained by Plaintiff, if any, were caused in whole or in part by his own acts or omissions, his failure to mitigate, or a combination of such;
- b. the injuries and damages sustained by Plaintiff, if any, were caused in whole or in part by the acts or omissions of persons other than these Answering Defendants;
- c. Plaintiff's Complaint may contain claims which fail to state a claim upon which relief may be granted as against these Answering Defendants;
- d. any and all injuries or damages sustained by Plaintiff is the result of an intervening and/or superseding cause preventing Plaintiff a right of recovery against these Answering Defendants;

- e. these Answering Defendants are immune from suit under common law and statutory immunities and privileges including discretionary immunity and qualified immunity;
- f. Plaintiff's claims for punitive damages are not supported by law or the Constitution;
- g. The acts of these Answering Defendants were in good faith, privileged, justified and not motivated by malice or intent to harm;
- h. These Answering Defendants reserve the right to amend this Answer to assert additional defenses as discovery proceeds.

WHEREFORE, Wisconsin Municipal Mutual Insurance Company and Troy Deiler respectfully request judgment as follows:

- 1. for a dismissal of the Plaintiff's complaint upon its merits;
- 2. for the costs and disbursements of this action;
- 3. for reasonable actual attorneys' fees pursuant to 42 U.S.C. § 1988;
- 4. for such other relief as this court deems just and equitable.

DEFENDANTS' RESPECTFULLY REQUEST A JURY TRIAL

Dated this 8th Day of July, 2016.

**ARENZ, MOLTER, MACY, RIFFLE &
LARSON, S.C.**

Attorneys for Wisconsin Municipal Mutual
Insurance Company and Troy Deiler.

BY: 

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